

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

December 15, 2009

Charles R. Fulbruge III  
Clerk

\_\_\_\_\_  
No. 09-40559

Conference Calendar  
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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE ALFREDO MENDOZA-DELGADO,

Defendant-Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 2:09-CR-15-1  
\_\_\_\_\_

Before KING, JOLLY, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

Appealing the judgment in a criminal case, Jose Alfredo Mendoza-Delgado presents arguments that he concedes are foreclosed by *United States v. Cepeda-Rios*, 530 F.3d 333, 335-36 (5th Cir. 2008), which held that even after *Lopez v. Gonzales*, 549 U.S. 47 (2006), a second state conviction for simple possession of a controlled substance qualifies as an aggravated felony that supports the imposition of an eight-level enhancement under U.S.S.G. § 2L1.2(b)(1)(C). The appellant's unopposed motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.